

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

November 29, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated October 28, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I am requesting clarification on a law/regulation regarding sales tax in the State of Illinois.

We are an equipment sales company in STATE with customers in Illinois. Specifically, we sell tub grinders for the purchase of recycling wood into mulch, a sellable (sp?) product. I have always been under the assumption that those customers would be exempt from sales tax due to one or both of the following categories: 1) Manufacturing a product with a sales value, and 2) recycling. MR. PERSON informed me that there was no recycling exemption in the state of Illinois, but thought that these individuals may fall under the category of manufacturing. He suggested that we receive your interpretation of the regulation.

We are about to undergo an audit by the STATE Department of Revenue for sales/use tax, and it is in our preparation that we found we may have been remiss. I would appreciate your interpretation as soon as possible. You can speak to either me or my partner PERSON2, or fax your response.

I appreciate your attention to this matter. Thank you.

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330, enclosed. The exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation.

"Manufacturing" is defined as the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, which

changes some existing material or materials into a material with a different use, form, or name. These changes must result from the process in question and be substantial and significant.

Generally, the use of machinery or equipment to effect a direct and immediate physical change upon the tangible personal property to be sold will be considered to constitute an exempt use under the manufacturing machinery and equipment exemption. Hand tools do not qualify for the exemption. However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling may qualify for the exemption.

Specific items themselves are not exempt from taxation as manufacturing machinery and equipment. The manner in which the item is used qualifies it for the exemption. The information in your letter states that the sole purpose of the tub grinder is to change wood into mulch to be sold at retail. Use of a tub grinder primarily in this manner would generally constitute "manufacturing" as that term is defined in Section 130.330.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.